

REMARKS

Claims 5-6 and 9-21 are pending in the application.

Claim 5 has been amended to recite "optical density attributable to the sensitizing dye."

Support for this amendment can be found on page 105, lines 18-20 in the specification.

Claims 5-6 and 9-21 have been amended to recite method claims. Support for these claims can be found on 6 and on pages 107-109 of Applicants' specification.

Claims 5-6 and 9-22 have been rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as allegedly being obvious over EP 0838719A2 ("EP '719").

Claims 5-6 and 9-22 have been rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as allegedly being obvious over Parton et al., U.S. Patent No. 6,143,486 ("Parton").

Applicants have amended the claims to recite method claims.

Applicants submit that the ratio of optical densities in the present invention is attributable to the sensitizing dye. EP '719 and Parton disclose the multilayer adsorption of dye and the sensitizing dyes used therefor. However, Applicants' ratio of optical densities attributable to the sensitizing dyes, A, is not necessarily inherent in all the sensitizing dyes disclosed in the references. Applicants submit that the presently claimed value for A of 0.9 or less may be obtained by the methods recited in claim 1. Applicants submit that EP '719 and Parton do not disclose these methods. Therefore, Applicants submit that the presently claimed method would not be anticipated by EP '719 or Parton.

Additionally, Applicants have found that when the optical density at a spectral absorption maximum wavelength before the photographic processing of the photographic emulsion is assumed to be G_0 and the optical density at a spectral absorption maximum at a wavelength after the photographic processing is assumed to be G_1 , if A represented by $A = G_1/G_0$ exceeds 0.9, the photographic capability is seriously impaired. Additionally, Applicants have found that when A is 0.9 or less, the problems are unexpectedly reduced. Accordingly, Applicants submit that the presently claimed method is not obvious over EP '719 or Parton.

In view of the above, Applicants submit that the presently claimed invention would not be anticipated or obvious over EP '719 and Parton. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the present invention.

Claims 5-6 and 9-22 have been rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as allegedly being obvious over Yamashita et al., U.S. Patent 6,180,332 ("Yamashita '332").

Initially, as stated above, Applicants submit that the method claims are not anticipated over Yamashita '332 for reasoning like that set forth above with respect to the other cited art.

Additionally, under 35 U.S.C. § 103(c), "[s]ubject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person."

Yamashita '332 qualifies as prior art under 35 U.S.C. § 102(e). Yamashita '332 is assigned to Fuji Photo Film, Co., Ltd. Applicants submit that the present invention and

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Yamashita '332 were, at the time the invention of the present invention was made, owned by Fuji Photo Film Co., Ltd. Accordingly, Yamashita '332 is not available as prior art under §103(c).

In view of the above, Applicants submit that the presently claimed invention is not anticipated or obvious over Yamashita '332. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection.

Claims 5-6 and 9-22 have been rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-16 of U.S. Patent No. 6,582,894.

Applicants respectfully traverse the rejection. Applicants submit that the claims of U.S. Patent No. 6,582,894 do not recite:

when the optical density attributable to the sensitizing dye at a spectral absorption maximum wavelength before photographic processing is G_0 and the optical density attributable to the sensitizing dye at a spectral absorption maximum wavelength after photographic processing is G_1 , $A = G_1/G_0$ is 0.9 or less, (which is recited in independent claim 5),

the excitation energy of the sensitizing dye in a second layer or layers above the second layer makes an energy transfer to the sensitizing dye in the first layer at an efficiency of 10% or more, and

a silver halide photographic emulsion containing a sensitizing dye having a basic nucleus of three or more condensed rings.

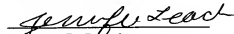
Applicants submit that these recitations, as recited in the present invention, would not be obvious over claims 1-16 of U.S. Patent No. 6,582,894.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,


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